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prevented from sliding freely with respect to said wheel, and (ii) varying a location of the first radial attachment point on the wheel during rotational movement of said wheel to thereby increase and decrease the first attachment radius;

wherein all points on the wheel are confined to rotation on a fixed, circular movement path, and wherein the center of rotation of the wheel remains in a substantially fixed orientation with respect to the adjusting means.

#### REMARKS

Claims 1-4, 11-14, 19-23, 29-35, 37 and new claim 38 are presented for consideration by the Examiner. The claims have been extensively amended in response to the rejections and remarks in the Office Action mailed June 12, 1998

A telephone interview was held with the Examiner on September 8, 1998, during which agreement was reached on some of the issues raised by applicant. The Examiner's remarks were helpful in assisting applicant's counsel in focusing on elements the Examiner considers most promising. More specifically, the Examiner agreed that independent claims 1, 32, 35 and 37 would overcome the prior art of record if they were amended to define that the radial attachment point is varied responsive to rotational speed of the wheel. The Examiner further agreed that a new claim 38, similar to original claim 1, would overcome the prior art of record if it further included the limitations of (1) a circular wheel, (2) the pivot point being coupled directly onto the wheel, (3) the wheel

being confined to rotated on a fixed circular movement path, and (4) the pivot point being held and prevented from sliding freely on the wheel, but also being moveable on the wheel while the wheel is rotating.

The amendments herein were made in accordance with the Examiner's suggestions given during said interview, and are believed to place the application in condition for allowance, and applicant makes the following points of law and fact in further support of said amendments. In a good faith effort to streamline the prosecution of the above-captioned application, applicant affirms the provisional election, and cancels herewith claims 5-10, 15-18, 24-28 and 36, without prejudice to any future submission of those claims in a subsequent application.

Regarding the rejection of the claims under 35 U.S.C. § 112, second paragraph, the various objections raised are believed to be overcome by amendments made herein which are consistent with said objections.

Regarding the rejection of the claims under 35 U.S.C. §§ 102 and 103, applicant has carefully studied the reasoning for the rejection provided in the Office Action, together with the prior art references relied upon. Applicant respectfully submits in good faith that certain aspects of the invention are nonobvious and allowable, and additional limitations have been incorporated into the independent claims which are believed to render said claims allowable. These claim amendments were made according to the

agreement reached with the Examiner in the telephone conference of September 8, 1998.

Regarding independent claims 1, 32, 35 and 37, they have been amended to define the additional limitation that the position of the pivoting, radial attachment point is varied responsive to rotational speed of the wheel. As was discussed in the telephone conference, Wildhaber fails to teach or suggest this concept, and the concept is adequately disclosed in the specification (see, inter alia, page 16 at line 4 - page 17 at line 20) and is therefore not new matter. M.P.E.P. §608.01(1) (In establishing a disclosure, applicant may rely on the description and drawings); In re Edward, Rice and Soulen, 196 U.S.P.Q. 465, 467 (CCPA 1978) ("To comply with the description requirement it is not necessary that the application describe the claimed invention in *ipsis verbis* ... all that is required is that it reasonably convey to persons skilled in the art that, as of the filing date thereof, the inventor had possession of the subject matter later claimed [or added] by him."); M.P.E.P. § 2163.07("Mere rephrasing of a passage does not constitute new matter. Accordingly, a rewording of a passage where the same meaning remains intact is permissible.") (citing In re Anderson, 176 U.S.P.Q. 331 (CCPA 1973)).

In fact, Wildhaber teaches away from the concept of a pivot point location being varied responsive to rotational speed of the wheel, because pivot pin 35 resides freely slidable within the slot 122 and continuously slides within that slot 122 regardless of the speed of the wheel/plate 33. See Wildhaber, col. 3 at lines

68-72. Since the purpose of Wildhaber is to optimize the stroke (see col. 1 at lines 39-43; col. 6 at lines 69-72) and not the gear ratio, it does not include the concept of the pivot point being moveable responsive to rotational speed. Rather, the pivot point 35 moves depending upon the position of the wheel/plate 33, not the speed thereof. None of the other references of record teach the combination defined in amended claims 1, 32, 35 and 37, and these amended claims are therefore believed to be allowable.

Regarding new claim 38, it is similar to claim 1 as originally filed, except that it includes several additional limitations which the Examiner agreed would overcome the prior art of record, including the following: (1) a circular wheel, (2) the pivot point being coupled directly onto the wheel, (3) the wheel being confined to rotate on a fixed circular movement path, and (4) the pivot point being held and prevented from sliding freely on the wheel, but also being moveable on the wheel while the wheel is rotating. All of these limitations are included in the specification and drawings (see page 8 at lines 18-21; FIGS. 1-2) and therefore do not constitute new matter.

The plate 33 of Wildhaber is not circular and is designed to ride within non-circular cam surface 121, and thus is not confined to rotate on a fixed circular movement path, and the pivot point 35 is not held and prevented from sliding freely on the plate 33. Thus, Wildhaber teaches away from claim 38 because if plate 33 was circular, and/or if the plate 33 was confined to a fixed circular path instead of the cam surface 121, and/or if the pivot point 35

was or could be held in a fixed position relative to the plate 33 and prevented from sliding freely in the slot 122, then the Wildhaber device would cease to function. Although the Nitka patent shows wheel 15, the pivot point 78a is not coupled directly onto that wheel but is instead fastened to crank arm 17a, and the pivot point 78a is not moveable while the wheel 15 is rotating, and Nitka fails to teach the combination of new claim 38 and also teaches away therefrom because the Nitka device would not operate if the pivot point 78a were attached directly to the wheel. Waterman requires that the pivot point 28 "slide[] freely in the radial slot 29" (see page 1 at line 75-76) and thus teaches away from the claim 38 requirement of an adjusting means for holding the pivot point fixed. None of the other prior art of record teaches or suggests the combination of limitations contained in new claim 38, and claim 38 is therefore believed to be allowable.

Claim 11 was declared allowable if amended to include the limitations of its base claim and any intervening claim. Accordingly, applicant has amended claim 11 to include all of the limitations of original claim 1 (there were no intervening claims) and is therefore believed to be allowable.

Dependant claims 2-4, 13-14 and 19-23 depend from claim 1 or a claim depending from claim 1, and are therefore believed to be allowable for the reasons given in support of claim 1.

Claim 12 depends from claim 11 and is therefore believed to be allowable for the reasons given in support of claim 11.

Dependant claims 33-34 depend from claim 32 or a claim depending from claim 32, and are therefore believed to be allowable for the reasons given in support of claim 32.

Dependant claim 36 depends from claim 35 and is therefore believed to be allowable for the reasons given in support of claim 35.

In view of the foregoing, applicants believe that claims 1-4, 11-14, 19-23, 29-35, 37 and new claim 38 are all allowable and the same is respectfully requested. If any impediment to the allowance of these claims remains after entry of this Amendment, and such impediment could be alleviated during a telephone interview, the Examiner is invited to initiate the same.

The Commissioner is hereby authorized to charge any additional fee or to credit any overpayment in connection with this Amendment to Deposit Account No. 20-0100.

DATED this 14th day of September, 1998.

Respectfully submitted,



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